

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 24580 of 2004

Between:

- 1 C.A. Mahaboob Bi, W/o C.A. Rahman,
 - 2 C.A. Abdul Khaleeb, S/o C.A. Rahman,
 - 3 C. Mahaboob Basha, S/o C.A. Rahman,
 - 4 C. Zulekha D/o C.A. Rahman,
 - 5 C. Zeenath, d/o C.A. Rahman,
- All are Majors, R/o 13-2-121, RC Nagar, Ananthapur.

..... PETITIONER(S)

AND

- 1 The Mandal Revenue Officer, Pamidi, Ananthapur.
- 2 The District Collector, Ananthapur.
- 3 Mala Gampaiah, S/o Kesappa,
Pamidi, Gooty Tq, Ananthapur.
- 4 Mala Munaiah, S/o Kesappa,
Pamidi Village, Gooty Tq, Ananthapur.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction especially in the nature of a writ of Mandamus declaring that the action of the 1st respondent, Mandal Revenue Officer, Pamidi in not considering the ownership of the petitioners for the land of Ac. 3.12 cents covered by Sy.No. 319-1-C1 and 319-1-C3 of the Pamidi Village and illegally restoring the same to the original assignees, respondents 3 and 4 herein by order dt. 15-12-93 in Rc.No. B-34/91 is illegal, arbitrary, contrary to the rules and the law, violative of Article 14 of the constitution of India consequently directing the respondents 1 and 2 to issue revised orders in the matter declaring that the land of the petitioner under question as free hold for all the purposes in the interests of justice and pass such other order or orders

Counsel for the Petitioners: MR.K.K.CHAKRAVARTHY

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

The Court, at the admission stage, made the following:

THE HON'BLE SRI JUTICE N.V. RAMANA

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W.P. No. 24580 of 2004

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Order:

One Sri. Mala Obulapathi (hereinafter referred to as 'the original assignee') was assigned lands in an extent of Ac. 3-12 cents in Sy. No. 310-1-C1 and Ac. 2-53 cents and Ac. 0-59 cents in

Sy. No. 319-1-C-3, by the Government in 1926. By order dated 5-11-1954, were declared as freehold lands, by the then District Collector, Anantapur. During 1969, the original assignee sold the land to one Kallamadi Kesseppa, from whom one

Late Sri. C.A. Rahman (hereinafter referred to as 'the purchaser') who is the husband of petitioner No.1 and father of petitioner Nos. 2 to 5, purchased the said lands on 10-9-1984 under a registered sale deed.

The learned counsel for the petitioners submits that as on 10-9-1984, the date on which the purchase of the lands in question was made by the purchaser, the then District Collector, Anantapur, vide his orders dated 5-11-1954, declared the lands as freehold lands, capable of being alienated, and as such, the sale effected by the original assignee in favour of Kallamadi Kesseppa, from whom the purchaser made the purchase of the land, is valid. Since the date of purchase, the purchaser and after his death, the petitioners are in continuous possession of the lands, the Mandal Revenue Officer, could not have, in his report dated 5-12-1993, recorded that the lands were restored to the original assignee.

Inasmuch as respondent Nos. 3 and 4 on the basis of the said report, are seeking to interfere with the possession of the petitioners, they filed the present writ petition. It is the contention of the petitioners that in respect of lands, which are covered by the report of the Mandal Revenue Officer dated 5-12-1993, when 'No Objection Certificate' was refused by the Mandal Revenue Officer to one Sri K.C. Pullaiah, on the ground that the lands are assigned lands and cannot be alienated, he filed a writ petition in W.P.

No. 16539 of 2000 before this Court, which by order dated 3-12-2002, was allowed directing the revenue authorities to follow the law laid down by this Court in W.P. No. 3946 of 1979, dated

10-8-1984, while granting 'No Objection Certificate'. In pursuance of the said order, the petitioners state that the District Collector vide his orders dated 8-1-2003 directed the Mandal Revenue Officer, to take action in the matter as there is no restriction for alienation of lands assigned in the year 1928, while granting permissions for sale. The petitioners, contend that inasmuch as, as on the date of

purchase made by the purchaser, there was no restriction for alienation of the assigned lands, the purchase made cannot be questioned, and as respondent Nos. 3 and 4, in the guise of the report of the Mandal Revenue Officer dated 15-12-1993, which recorded that the original assignees were restored possession, are interfering with the possession of the petitioners, the same is liable to be quashed and set aside, and submit that the orders dated 8-1-2003 also should be made applicable to the case of the petitioners in upholding the purchase made by the purchaser.

The writ petition is liable to be dismissed on the ground of laches alone. The petitioners, admittedly, are seeking to challenge the report of the Mandal Revenue Officer, which was passed as far back as on 15-12-1993. The report of the Mandal Revenue Officer, though recorded that as per 10-I Chitta, the pattedar is Kallamudi Kesappa, and he having died, sought to restore the lands to his legal heirs, namely respondent Nos. 3 and 4, who are his sons, and accordingly directs the Village Administrative Officer, to effect necessary changes in the Revenue Accounts, and handover possession of the land to them, and further made it clear that if they fail to bring the land under cultivation and try to alienate the land, the land will be resumed to Government, the petitioners have not chosen to challenge the same at an earlier point of time, though the recordings went against them. The petitioners, except stating that respondent Nos. 3 and 4 on the basis of the above report of the Mandal Revenue Officer, are trying to interfere with their possession, have not stated any reason as to why they could not challenge the report of the Mandal Revenue Officer dated

15-12-1993 at an earlier point of time, which admittedly, was adverse to them. Merely because the District Collector vide his orders dated 8-1-2003, had directed the Mandal Revenue Officer, to follow the orders in W.P. No. 3946 of 1978, dated 10-8-1984, while granting 'No Objection Certificate' as there is no prohibition for alienation of lands assigned in the year 1928, is not a ground to set aside the report of the Mandal Revenue Officer, which restored the lands to petitioner Nos. 3 and 4, as far back as on 15-12-1993, and upheld the purchase made by the purchaser of the land in question.

In the result, I see no reason to entertain the writ petition, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 20th January, 2005.

KSR

To

- 1 The Mandal Revenue Officer, Pamidi, Ananthapur.
- 2 The District Collector, Ananthapur.
- 3 Two CCS to GP for Revenue, High Court of AP, Hyderabad (OUT)
- 4 Two CD copies.